

**Supplement to
Directive #3-04**

Questions or comments may be
directed to (609) 984-3150
or (609) 984-5024

To: Assignment Judges

From: Richard J. Williams

Subject: Interpreting Standards – Standard 3.1 (“Interpreters’ Oath”)

Date: May 25, 2004

This supplements my memorandum of March 26, 2004, designated as Directive #3-04, which promulgated the Standards for Delivering Interpreting Services in the New Jersey Judiciary (“Interpreting Standards”). The Judicial Council had approved the set of Interpreting Standards in February. This supplemental memorandum relates specifically to Standard 3.1 (“Interpreters’ Oath”) and the accompanying commentary.

The Judicial Council at its April 29, 2004 meeting revisited Standard 3.1 because of an apparent conflict between the commentary thereto and the application of the relevant Rule of Evidence (*N.J.R.E.* 604). After further consideration, the Judicial Council approved revisions to Standard 3.1 and the accompanying commentary to resolve that apparent conflict. Those revisions are attached.

Standard 3.1 as promulgated by Directive #3-04 set forth a uniform written or oral oath for all interpreters. The comment section following that Standard made reference to *New Jersey Rule of Evidence* 604 that requires an interpreter to be “subject to all provisions” of the evidence rules that relate to witnesses and to “take an oath or make an affirmation or declaration to interpret accurately.” The comment section accompanying Standard 3.1 also stated that the “preferable approach is for interpreters to take that oath only at the beginning of their career as an interpreter for the New Jersey judiciary.” The Supreme Court Committee on the Rules of Evidence had earlier considered and rejected an amendment to *N.J.R.E.* 604 that would have provided for the one-time oath. That earlier consideration is reported in the Committee’s 2002-04 Report. As set forth in that report, the Committee based that rejection on its conclusion that “the interpreter’s oath takes up little courtroom time and that the oath emphasizes to all participants the seriousness and importance of the interpreter’s role in the proceeding.” The commentary to Standard 3.1, on the other hand, suggested that administering the oath to the interpreter before each proceeding “is time-consuming and adds one more task for the judge or hearing officer to perform.” The commentary further suggested that “[t]he practice of administering the oath

[before each event] has ... been honored more in the breach than in the execution." In light of this apparent conflict between the recently promulgated Standard -- or at least the commentary accompanying that Standard -- and the Evidence Rule as it has been applied, and the fact that the Judicial Council did not focus on this point in its earlier consideration of the standards, the Council was asked to revisit this particular point and determine whether Standard 3.1 and the accompanying commentary should remain as written or should instead be revised.

As noted, at its April 29, 2004 meeting the Judicial Council concurred with the Committee on the Rules of Evidence and approved revisions to Standard 3.1 and the commentary so as to make clear the requirement that an interpreter should be sworn in at the start of each proceeding of record. References to a one-time oath thus have been deleted. The attached revised page 11 is intended to supersede page 11 in the set of Interpreting Standards promulgated by Directive #3-04.

Any questions or comments about this supplement to the Directive or about the Interpreting Standards in general may be directed to Patricia Shukis Fraser, Assistant Director, Programs and Procedures, at (609) 984-3150, or to Robert Joe Lee, Language Services Section, at (609) 985-5024.

R.J.W.

attachment

cc: Chief Justice Deborah T. Poritz
Hon. Philip S. Carchman, Admin. Director Designate
Hon. Joseph B. Small, Tax Court Presiding Judge
Presiding Judges (Civil, Criminal, Family, General Equity)
Theodore J. Fetter, Deputy Administrative Director
AOC Directors and Assistant Directors
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Donald F. Phelan, Superior Court Clerk
Diane L. Ailey, Tax Court Administrator/Clerk
Vicinage Division Managers (all Divisions)
Marilyn C. Slivka, Manager, Special Programs
Robert Joe Lee, Language Services Section
Vicinage Coordinators of Interpreting Services
Steven D. Bonville, Special Assistant
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SECTION 3. INTERPRETING GENERALLY

Standard 3.1 Interpreters' oath.

All interpreters shall take the following written or oral oath at each proceeding of record for which they interpret: "Do you solemnly swear or affirm that you will interpret accurately and impartially, follow all guidelines for court interpreting that are binding on you, and discharge all of the solemn duties and obligations of an official interpreter?" No unsworn interpreter shall be permitted to interpret.

Comment:

This standard sets out uniform language for the oath that the evidence rule pertaining to interpreters, *N.J.R.E.* 604, requires be administered to all interpreters, a uniformity that did not exist prior to these standards. That evidence rule simply provides that a "judge shall determine the qualifications of a person testifying as an interpreter. An interpreter shall be subject to all provisions of [the evidence] rules relating to witnesses and shall take an oath or make an affirmation or declaration to interpret accurately."

The use of a uniform oath lends consistency to the procedure required by the evidence rule and underlines the importance of the oath and the concomitant responsibility it places on an interpreter to give accurate and impartial interpretations.

This requirement is viable only for proceedings placed on the record, but, at such proceedings, oaths should be administered both to those interpreters interpreting for the record and those who may be doing proceedings interpreting, *i.e.*, interpreting what is going on for a party at counsel table.